

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

***In Re: American Medical Systems, Inc., Pelvic Repair System  
Products Liability Litigation  
MDL No. 2325***

**Civil Action No. 2:13-14202**

---

**SHORT FORM COMPLAINT**

Come now the Plaintiff(s) named below, and for Complaint against the Defendants named below, incorporate The First Amended Master Complaint in MDL No. 2325 by reference. Plaintiff(s) further show the court as follows:

1. Female Plaintiff

Marian Miller

2. Plaintiff Spouse

Donald Miller

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator)

N/A

4. State of Residence

Clovis, CA

5. District Court and Division in which venue would be proper absent direct

filings United States District Court for the Eastern District of California

Fresno Division

6. Defendants (Check Defendants against whom Complaint is made):



A. American Medical Systems, Inc. (“AMS”)

- B. Ethicon, Inc.
- C. Ethicon, LLC
- D. Johnson & Johnson
- E. Boston Scientific Corporation
- F. C. R. Bard, Inc. (“Bard”)
- G. Sofradim Production SAS (“Sofradim”)
- H. Tissue Science Laboratories Limited (“TSL”)
- I. Mentor Worldwide LLC
- J. Coloplast Corp.

7. Basis of Jurisdiction

- Diversity of Citizenship
- Other: \_\_\_\_\_

A. Paragraphs in Master Complaint upon which venue and jurisdiction lie:

1-13  
\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

B. Other allegations of jurisdiction and venue

N/A  
\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

8. Defendants' products implanted in Plaintiff (Check products implanted in Plaintiff)

- A. Apogee;
  - B. Perigee;
  - C. MiniArc Sling;
  - D. Monarc Subfascial Hammock;
  - E. SPARC;
  - F. In-Fast;
  - G. BioArc;
  - H. Elevate;
  - I. Straight-In;
  - J. Other
- 
- 

9. Defendants' Products about which Plaintiff is making a claim. (Check applicable products)

- A. Apogee;
- B. Perigee;
- C. MiniArc Sling;
- D. Monarc Subfascial Hammock;
- E. SPARC;
- F. In-Fast;
- G. BioArc;
- H. Elevate;
- I. Straight-In;

J. Other;

[REDACTED]

---

[REDACTED]

---

10. Date of Implantation as to Each Product

8/12/2009

[REDACTED]

---

[REDACTED]

---

11. Hospital(s) where Plaintiff was implanted (including City and State)

Fresno Surgical Hospital

Fresno, CA

12. Implanting Surgeon(s)

H. Gregory Rainwater, M.D.

[REDACTED]

13. Counts in the Master Complaint brought by Plaintiff(s)

- Count I - Negligence
- Count II – Strict Liability – Design Defect
- Count III – Strict Liability – Manufacturing Defect
- Count IV – Strict Liability – Failure to Warn
- Count V - Strict Liability – Defective Product
- Count VI - Breach of Express Warranty
- Count VII – Breach of Implied Warranty
- Count VIII – Fraudulent Concealment
- Count IX – Constructive Fraud
- Count X - Discovery Rule, Tolling and Fraudulent Concealment
- Count XI – Negligent Misrepresentation

- Count XII – Negligent Infliction of Emotional Distress
- Count XIII – Violation of Consumer Protection Laws
- Count XIV – Gross Negligence
- Count XV - Unjust Enrichment
- Count XVI - (By the Spouse) – Loss of Consortium
- Count XVII – Punitive Damages
- Other \_\_\_\_\_ (please state the facts supporting this Count in the space, immediately below)
- Other \_\_\_\_\_ (please state the facts supporting this Count in the space, immediately below)

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

/s/ Jeffrey M. Kuntz

Attorneys for Plaintiff

Address and bar information:

WAGSTAFF & CARTMELL, LLP  
4740 Grand Avenue, Suite 300  
Kansas City, MO 64112

Thomas P. Cartmell MO #45366  
Jeffrey M. Kuntz MO #52371

---

---

---

---

---